

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on February 7, 2005 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margaret H. Campbell (D)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Bob Lake (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: Chris Lohse, Legislative Branch
Eddie McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 456, 1/28/2005;
HB 438, 1/26/2005
Executive Action: HB 369; HB 404; HB448

HEARING ON HB 438

Sponsor: REPRESENTATIVE ROSALIE BUZZAS, HD 93, Missoula

Opening Statement by Sponsor:

REP. ROSALIE (ROSIE) BUZZAS opened the hearing on **HB 438**, which dealt with braille literacy services for blind or visually impaired children. The bill was requested by the Montana Association for the Blind to ensure that both blind and visually impaired children can succeed in school and become employable adults. A copy of the braille version of **HB 438** was passed out to each member of the committee. Braille is the key to reading, mathematics, science, history and all other areas of learning to a blind person. The "...where as..." statements at the beginning of the bill demonstrate research that shows that blind and visually impaired students who have been trained for braille, especially at an early age, scored at or above their counterparts on a literacy based test including reading, spelling, and vocabulary. The studies also pointed out that a higher percentage of adult visually impaired individuals who had learned braille were employed as compared to visually impaired adults who had not learned braille.

The **SPONSOR** explained the sections of the bill. **REP. BUZZAS** stated that the intent of the bill was to recognize that for some students braille is the key to learning, literacy, self-esteem and a successful future and employment. The bill sets out a mechanism to get the much needed services to blind and visually impaired students that are being educated in public schools throughout the state. The bill will require an initial investment of resources and some ongoing support services. **REP. BUZZAS** said she was not sure about the accuracy of the fiscal note as it depended on the consolidation of resources and other methods of funding.

EXHIBIT (edh30a01)

Proponents' Testimony:

Jim Marks, Montana Association for the Blind, Missoula, found out he had an eyesight disease when he was 18 years old. At the age of 25 he was legally blind. He was fortunate to have his literacy in place because he had started to learn braille as an adult. He said braille was how he dealt with blindness. He believed the key to independence for blind people was learning the alternative techniques of blindness, such as a cane or seeing eye dog. Mr. Marks is the Director of Disability Services of the University of Montana. He has held that position for seventeen

years. He had seen many incidences where Montana blind and visually impaired kids came to the university and they didn't do well because they didn't know how to read and write satisfactorily. As chairman of the special interest group on Blindness and Visual Impairments for the Association on Higher Education and Disability, he assured the committee that the bill addresses a problem that is not just a Montana one but a national one. The only group of people with a disability that is shrinking in higher education is blind and visually impaired students. The number has shrunk radically because of better medical intervention, but a big chunk has to do with literacy. The bill is needed to entrench a better educational practice so that Montana blind and visually impaired kids can get a good quality education. The Montana Association for the Blind is very active on many fronts and they don't expect the bill to be the end answer. In one year's time, Montana students will be able to get textbooks for grades K-12 in electronic format that can be converted to braille. Scholarships are offered for blind or visually impaired people to learn braille.

The organization provides technical assistance to schools through child study teams. If a person wanted to know how to be good at being blind, he/she should talk to a competent blind person. Many parents come to the association and ask for help. He explained the functions of a braille computer he had brought to the hearing. The use of modern equipment on the market is a problem in the schools because there is no one trained in the school systems to use them. Mr. Marks informed the committee that most of what **HB 438** deals with is already in federal law. It was his belief that what makes education work for the blind or visually impaired kids is parents that are well informed and relentless enough to make the system work. Opposition to the bill doesn't come out of malice or mean spiritedness but comes from lack of information. He doesn't want illiteracy to be synonymous with blindness. He noted that there is a large fiscal note on the bill and he welcomed that. He believed that for change to come there must be more money spent. Montana needs to centralize some of its resources to better use the money spent on the handful of blind students. He presented the committee with a Fact Sheet.

EXHIBIT(edh30a02)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 20}

Myrle Tompkins, President, Montana Association for the Blind, informed the committee that as an adult she became legally blind in 1985. She turned to the state for help when this happened. She found books on tape a wonderful resource. It wasn't long before she realized listening was not the same as reading. She gave each committee member a card on braille and explained the

braille alphabet. She wanted the committee to realized that braille is not a difficult code. Cards in braille are available in Hallmark Stores. Ms. Tompkins is able to braille all of her appliances and all of her can goods. There is a great amount of expensive technology available but braille is inexpensive.

EXHIBIT (edh30a03)

Jerry Hutch, Vice President of the Capital City Chapter of the Montana Association for the Blind, stood in support of the bill because he believed that any visually impaired or blind student in the State of Montana is being short changed by the education system if he/she is not made availed of braille and braille services. Blind children need to have the knowledge of braille in order to become self sufficient in their lives in school and as they get into the workforce. Blind people have a very high incidence of being unemployed. That doesn't mean they can't be employed. Currently Mr. Hutch was employed by Microsoft on a part-time basis only because he chose to work part time. Braille is very helpful to the blind in the work field and so is adaptive technology; which is the means and method of enlarging computer texts, having a computer read what is on the screen to the user, and to create a braille page directly from the computer. The technology is available today and it works.

{Tape: 1; Side: A; Approx. Time Counter: 20 - 30}

{Tape: 1; Side: B}

June Hermanson, Montanans with Disabilities for Equal Access, wanted to testify from a couple of vantage points. She was congenitally legally blind. She was one of the youth in one of the Montana high school systems who was unable to access the testing format that existed. She and her parents were told she had no potential. She believed that had braille been available in the public school system in rural Montana, it would have helped as she progressed through her educational program and as an adult with a diagnosis and prognosis of total blindness. She informed the committee that she administered a program for high school students with disabilities. Montanans with Disabilities for Equal Access works with all students with disabilities. In Montana there are over 5,400 kids in high school who are on individualized education plans. There are students in Montana schools who are on 504 Plans. She said that identifying those students who are blind or have low vision in the public school systems is not difficult. Through the program that she administers, she has watched where youth are the only group within society that cannot access a form of communication that will actually contribute to their success in school and life after school. She knew of a young woman who could not access braille in the Billings community. The woman had to leave the community to access braille in the fashion she needed. The

services need to be provided in school districts so that children do not have to leave their families and homes to learn braille.

Matthew Castner rose in support of the bill. He was born blind and grew up in Montana. When he was six years old he went to the Montana School for the Deaf and Blind (MSDB) to receive instruction on braille. After leaving MSDB he returned to his local school and that school did not want to continue his braille instruction. He parents fought hard to get the school to purchase the necessary books and equipment that he needed. The family won the battle. The school's thinking was, "Why does he need to have braille when he could learn it on tape?" Mr. Castner said that there were many reasons. When a person listens to tapes and reads things on the computer, a person is not learning grammar, spelling, or phonetics. Braille has its applications outside of school. There are braille ATM machines and braille signs on elevator and restroom doors. It has a social aspect in the school. If a student is sitting in a corner listening to a tape player while everyone else is reading a lesson, he doesn't interact with his/her peers. Mr. Castner believed that braille was essential for any child that was able to learn it. He wished to address the section of the bill that talked about certification of braille teachers. He believed that a teacher needed to be certified in braille just as any teacher in the system needed to be certified in his/her discipline.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.3}

Kayla Legare rose in support of the bill because she was an avid braille reader. She believed if she was to get her vision back, she would still be a braille reader. It was that important to her. When she became blind at the age of four, her mother sent her to a blind school to learn braille. When she returned home and to the public school, she had difficulties with some of her assignments. When she read her assigned books on tape, she was unable to write the required essays on the books because the teacher wanted quotes and references from the book which was difficult because she didn't want to read the book again to find them. The information was much more accessible in braille. She believed that one chooses his/her handicap and only the person can hold himself/herself back. Braille brought her one step closer to being independent and normal. She had a business of brailling menus.

Carl Schweitzer, Montana Association for the Blind, said they brought the bill before the committee for a number of reasons. He felt the committee had already heard them. He handed out an article entitled, "Why Megan is Learning Braille." The article emphasized that braille was a very important ingredient in the learning process for a blind person. He addressed the Technical

Notes in the bill's fiscal note. He agreed that some of the ideas are repeats from federal law, but he said that one never knows when legislation is going to change and if the idea is a good piece of statute, then it needed to be restated in Montana codes. He presented the committee with an article from The Observer, Springs/Summer, 1997 written by Jim Marks. The article was about a young blind child in Polson and the struggle his family had to get the child educated in braille.

[EXHIBIT](#)(edh30a04)

[EXHIBIT](#)(edh30a05)

Beth Brenneman, Montana Advocacy Program, informed the committee that her organization often represented children with disabilities to access the services they needed to be successful. She urged the committee to pass the bill.

{Tape: 1; Side: B; Approx. Time Counter: 9.3 - 20.9}

Opponents' Testimony:

Steve Gettel, Montana School for the Deaf and Blind (MSDB), rose as an opponent to the bill because MSDB had a couple of concerns with the bill in its present form. He presented written testimony.

[EXHIBIT](#)(edh30a06)

Dave Puyer, Montana Rural Education Association (MREA), rose in opposition to the bill. He said MREA lauded and supported the ideas, concepts and efforts that were behind the bill. Rural schools have a number of concerns with the bill. The most important one is that there was a great deal of confusion with the bill and coordination with MSDB.

{Tape: 1; Side: B; Approx. Time Counter: 20.9 - 30}

{Tape: 2; Side: A}

As members of the rural schools have looked at the bill and some of the implications of the bill, specifically in Section 6, it would be very difficult for rural areas to address. Section 6 talked about the requirements for school districts to have people in place to serve the students. MREA would like to do that in coordination with MSDB, but without that coordination it didn't seem possible. The outreach issue is significant and he asked the committee to take a look at it. MREA questioned the figures on the fiscal note as it appeared very conservative in dealing with the needs of the children it addressed.

Elaine Sollieherman, Eagle Forum, stated that her organization is concerned about children who need braille services. Their objection to the bill was not in providing services but the bill puts an element of distance between the need for parental control

and need. The bill puts the control into a state agency instead of with MSDB.

Informational Testimony:

Bob Runkel, Director of Special Education, Office of Public Instruction (OPI), emphasized that the bill contains a number of technical issues and concerns, many in the fiscal note. He made the committee aware of his presence for questions.

Barb Rolf, Montana School for the Deaf and Blind, had no arguments with the bill. She graduated from a certified braille program. She believed the state must look at each individual case and make a consideration to determine whether the child is going to be a braille reader. Just because a child has visual impairment on their Individual Education Program (IEP) does not automatically mean he/she is going to be a braille reader. She reported that she has a case load of 54 students and 16 of them are reading and writing braille. The concern that she had was the available resources, not the money. She had never known a rural school to refuse instruction of braille to a student in need. She believed there is a shortage of instructors to meet the needs in the bill. There are 6,000 jobs across the nation open for teachers of the visually impaired and orientation mobility. University systems are graduating 300 students a year who would qualify for those jobs. She wanted to know where the state would find the certified teachers talked about in the bill. Certification and training of the teachers of braille will be a problem and it would eliminate some of the non-certified instructors in the state.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 15.8}

Questions from Committee Members and Responses:

REP. BUTCHER required information from Steve Gettel. It appeared to **REP. BUTCHER** that the authors of the bill did not consult MSDB in much depth in writing the bill. **Mr. Gettel** said there had been discussions for several months in the late fall. There was some dialogue on the numbers of students, but not so much how the bill would be implemented. **REP. BUTCHER** asked if there were amendments that could be offered and considered that might correct the issues. **Mr. Gettel** answered that the school would be interested in looking at amendments to the bill if the SPONSOR and proponents wanted to sit down with them and look at the issues. **Mr. Gettel** claimed that OPI would have to be involved also.

REP. BUTCHER held that students learn faster if they are in a total immersion situation such as being on campus. He pondered

if that was a correct assessment. He desired to know how long it would take for a student to be adequately trained so that the student could return to his/her own school and perform in the mainstream. **Mr. Gettel** told REP. BUTCHER that his training was on the deaf side and he couldn't answer the question. His school writes an IEP with the student's school district and the kids can come to MSDB for instruction. One needs to look at the whole education of the student. Many factors are involved. **REP. BUTCHER** asked how long it would take for a student to learn braille. He wondered if academic skill affected how long it takes a student to learn braille. The question was redirected to Barb Rolf. **Ms. Rolf** informed him that there are a lot of components in braille that had not been mentioned in the hearing. It is not simplistic. The shortest time she had seen a student get through her curriculum was three years. The time is based on the dynamics of the child. There is no way to set a standard length of time for a child to learn braille. **REP. BUTCHER** wondered if an average student would need to be in a fairly intense braille education for probably six to eight years of school. **Ms. Rolf** answered that braille is not a quick fix and is an intensive study. **REP. BUTCHER** speculated that if a parent wanted to work with the child, then the parent would need to be on campus almost every day to assist the child. The idea of certification would make it very difficult for people to be qualified. **Ms. Rolf** agreed with the REPRESENTATIVE.

{Tape: 2; Side: A; Approx. Time Counter: 15.8 - 30}
{Tape: 2; Side: B}

REP. LAKE requested information from Dave Puyer. He desired to know how many current text books in the State of Montana, using text and electronic media, can be converted to braille. **Mr. Puyer** reported that he had no idea. The question was referred to Jim Marks. **Mr. Marks** indicated that he didn't believe too many schools were doing it as schools can approach publishers and get the electronic versions. With the re-authorization of the Individuals Disabilities Education Act, it set up a national repository which will be the American Printing House for the Blind. Every grades K-12 text book will be repository available for a fee when it is set up.

REP. DOWELL sought information from REP. BUZZAS. It was his belief that under special education law the school has to provide a least restrictive environment. He believed if the instruction could be done locally, then the district would be prohibited from moving the child out of the school. His desired confirmation of his thoughts. **REP. BUZZAS** said that technically he was correct. In reality it is very difficult for school districts to come up the resources. It is a challenge and **REP. BUZZAS** believed her bill could help the situation. If resources and expense could be

centralized, maybe many children could stay in their homes and be educated.

REP. DOWELL requested information from Bob Runkel. The **REPRESENTATIVE** pressed Mr. Runkel about how a person can be certified in teaching braille and where he would go to get the training. **Mr. Runkel** informed him that there is currently no certification process in Montana for teachers of the visually impaired. Any kind of separate credential or certification would either have to be developed within the state where one does not now exist or one would have to be looking at some form of a national certification. **REP. DOWELL** referred the question to Jim Marks. **Mr. Marks** informed him that the Montana Association for the Blind wanted to preserve the idea that the state would stay away from the notion of certification because they understood the difficulties that rural Montana faced and did not want to tie the hands of the education system. What is being talked about is that the trainers pass a test that is provided by the Library of Congress. The test is designed to measure whether a person reads braille at an acceptable level. It is not designed for teachers and paraprofessionals but for volunteers. The National Library Service also offers free courses one can take by correspondence as does the Hadley School for the Blind.

REP. WINDHAM pressed Bob Runkel for information about how non-certified teachers affects the No Child Left Behind Act which requires highly qualified teachers. She wondered if braille teachers are exempt from that definition. **Mr. Runkel** said that the No Child Left Behind Act considers a teacher highly qualified on the basis of his/her knowledge in a core academic subject area, not on his/her ability to teach specialized skills such as those needed to teach braille. **REP. WINDHAM** pondered if there is no certification process or measuring of the person's skills, how would the state know about the trainer's qualifications. **Mr. Runkel** informed her that the answer to her question rests with the expertise that is available to the state through MSDB. Its professionals provide the support and guidance to the schools in helping them understand what skills are necessary in guiding the teachers and supporting them in their instruction. It probably is the test of whether the state is providing the student a good program. **REP. WINDHAM** wondered if, due to the recent court decision, it would be equal opportunity if the student was allowed to live at home and attend the local school. **Mr. Runkel** believed that the state is doing a good job of providing instruction through the support of MSDB and the work of the teachers in the schools. There is a requirement in federal regulations that personnel that provide instruction need to be sufficiently knowledgeable to be able to deliver the instruction. It is a generic requirement and not specific to teachers who work

with students who have visual impairments. It applies to all disability types. The access of the training and providing a qualified instruction program to the students is enhanced through the work of the outreach program. It is central to the success of the local public schools in working with children with sensory impairments. He did not believe without their help the schools could be doing that job but with their help he believed that many of the students are being appropriately served in their local schools and they do not necessarily need to move to MSDB for a quality program.

CHAIRPERSON GALVIN-HALCRO had a question for Carl Schweitzer. She called his attention to the Assumptions on the fiscal note where it discussed a teacher paying for his/her own instruction in braille. New teachers already are carrying large student loans which must be paid. **Mr. Schweitzer** referred the question to the SPONSOR. **REP. BUZZAS** said she had not participated in writing the fiscal note and could not answer the question. **REP. BUZZAS** did not believe a teacher should pay for the training. **REP. GALVIN-HALCRO** also questioned wording in the bill where it talked about "...reading and writing must be sufficient to enable each blind or visually impaired child to communicate..." in relationship to the No Child Left Behind Act, where students need to be proficient in reading and writing. She wondered how the SPONSOR would identify the level of proficiency. She asked, "What standards will it meet?" **REP. BUZZAS** said, "I don't have a complete answer to that." She believed that everyone is trying to figure out the No Child Left Behind Act and exactly what "proficiency" means for different levels. She sees the need to teach braille the same as the need to teach sighted children how to read.

CHAIRPERSON GALVIN-HALCRO wondered where an individual interested in instruction in braille would go to get the training and how much it would cost to get the training. **REP. BUZZAS** believed that was an issue the state had to address. She believed the state currently has many unused resources such as the young people who testified as proponents. They could teach others how to teach braille or they themselves could teach students braille.

Closing by Sponsor:

REP. BUZZAS said she had heard the issues raised by the opponents. She believed the real issue was how to solve the problem and how it is going to get done. She informed the committee there may not be large numbers of blind and impaired children in the Montana School System but every child matters. An IEP says that every student gets a chance with the family involved, to come in and figure out what the child needs. The

help may exist in law but the SPONSOR doesn't believe it exists in reality. In rural communities it is a burden to have a student that has any impairment. She believed her bill sought to solve the problems involved. The state needs to address the problem. Everyone should realize that children do better in every need area when they can stay home with their families in their communities.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 22}

{Tape: 3; Side: A}

HEARING ON HB 456

Sponsor: REPRESENTATIVE ROGER KOOPMAN, HD 70

Opening Statement by Sponsor:

REP. ROGER KOOPMAN opened the hearing on **HB 456** which deals with charter schools and charter school districts. He informed the committee that Montana is one of a small number of states with no charter school law on the books. He discussed what a charter school is as discussed in the bill. He has not heard of the bill causing any constitutional problems. The specific constitutional problems have been addressed. In his opinion, the current public school situation is unconstitutional. He believed the lack of choice and existence of charter schools makes the present education system unconstitutional. The constitution sets forth three goals: equal opportunity, full educational potential, and the protection of Indian cultural heritage. It was his belief that charter schools are the perfect vehicle for the establishment of schools that would focus on Indian heritage. A charter school can address the very unique and special needs of Indian people. Over one million students in the United States are being educated in public charter schools where the parents of the kids have chosen to educate their children in them. There are long waiting lists for most charter schools. The longer Montana waits to put a charter school law into effect, the longer the state is cheating the children of the state.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 5.6}

Proponents' Testimony:

Esther Fishbaugh rose in support of the bill. She especially liked the provision in the bill that gives school boards the ability to create a charter school in its district. It would be a great tool to immediately address the concerns of parents when their students have a particular school goal that is not met in the current public education system. Charter schools could be a great way to stave off building additional schools. She was

interested in the ability to shape the charter school to meet a particular requirements of the business society. Students could graduate from a charter school and go directly to a particular job he/she had trained for in the school.

{Tape: 3; Side: A; Approx. Time Counter: 5.6 - 10.1}

Dick Green rose in support of the bill and he believed the bill was long overdue. He felt charter schools would make the current public school system more responsible. He believed that charter schools would create healthy competition among the schools in Montana.

Elaine Sollieherman, Eagle Forum, informed the committee she supported the bill because it would make public education more inviting and available to all of Montana's children. She believed there are 11,735 children in Montana who have chosen an alternative form of education. She told the committee that research showed that motivation was the strength of charter schools' success. Charter schools are created with the understanding that if their students do not make achievement gains, the schools will be closed. She reported that in the United States there are 3,400 charter schools in service with almost one million students. Four hundred new charter schools opened in 2004-2005. It was a 15% increase.

Harris Heims, Montana Family Coalition, reported that to him charter schools would be an ideal opportunity to try to invite back in many of the home school people. Charter schools could be a situation that would give the home school students a certain degree of flexibility that might work well. It was his understanding that the constitutional problems that plagued bills in previous sessions had been solved. He believed there was faith-based money in the No Child Left Behind Act and he wasn't sure if Montana had a director who parceled out that money. Mr. Heims said he spoke in favor of the bill for Julie Melon.

Eric Schiedermayer, Montana Catholic Conference, wanted to go on record as being very supportive of the underlying philosophy of school choice. He believe strongly that it brought everyone to a higher level.

{Tape: 3; Side: A; Approx. Time Counter: 10.1 - 18}

REP. JACK WELLS, HD 69, believed citizens of Montana needed school choices. Montana citizens are forced to put their children in the school system designated by the state and parents must pay taxes to support the school. It was his belief that Montana schools are some of the best in the nation but he believed choice was necessary to meet all the needs of students.

Opponents' Testimony:

Bud Williams, Deputy Superintendent, OPI, rose in opposition to the bill on behalf of the State Superintendent Linda McCulloch. He presented written testimony.

EXHIBIT(edh30a07)

{Tape: 3; Side: A; Approx. Time Counter: 18 - 25.9}

Lance Melton, Montana School Boards Association (MSBA), rose in opposition of the bill and presented written testimony. He stated the bill was bad public policy.

EXHIBIT(edh30a08)

{Tape: 3; Side: A; Approx. Time Counter: 25.9 - 30; Comments: During the testimony of Lance Melton, the tape was changed to side B.}

Steve Meloy, Executive for the Board of Public Education, stood in opposition to the bill. He believed the bill to be in direct violation to Article 10, Section 9, Sub 3, of the Montana Constitution which provides that there is a Board of Public Education to exercise general supervision over the public school system. The bill exempts a charter school district from all the provisions of Title 20, which includes all the powers and duties of the Board of Public Education, including the adopted standards of accreditation, the policies for the conduct of Special Education and any supervision over teachers. The local board has the authority and subsequent rules of addressing requests from individuals seeking alternatives of any kind to the state standard. Presently any school district can apply to implement alternative standards complete with the submission of the objectives it would like to put in place. He reported that the statistics are that 10% of all charter schools that have opened in the past year have failed. That figure is up 4% from a year ago. When a charter school fails, it shuts down and children are forced back into the public school system. He did not believe that there would not be a fiscal impact due to the bill. The bill puts the Board of Public Education out of the equation.

Dave Puyer, Montana Rural Education Association (MREA), strongly opposed the bill. He believed that "charter" is not a scientific word and he didn't believe that everyone who had talked about charter schools during the meeting was talking about it in the same way. He informed the committee that Montana had it right by not having the system on its books. He testified that Montanans presently have many choices when it comes to education within the constraints of the public system. Montana has financial problems and he asserted that this was not the time to implement this kind of a system that would take money away from public schools.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 9.3}

Eric Feaver, Montana Education Association-Montana Federation of Teachers (MEA-MFT), rose in opposition to the bill. He presented written testimony for the comments he planned to make to the committee.

[EXHIBIT](#)(edh30a09)

{Tape: 3; Side: B; Approx. Time Counter: 9.3 - 22.4}

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. KOOPMAN reported that it is always the same voices, representing the same groups and organizations, that come out against charter schools. These people would have one believe that charter schools that work in other states are not going to work in Montana. Charter schools are a form of public education. The reason charter schools work is because they are different, because they respond to consumer demand and needs. A charter school could be developed along many different lines. A parent might want a school to emphasize environmental education and infuse that into the child's school. He felt that what was good for the individual student was what served the public good. One size does not fit all and that is what charter schools are proving all over the country. Charter schools have a higher performance rate than the traditional schools even though they have a higher enrollment of minority and disadvantaged students. These are the students that crash and burn in the present system and they are looking for a place for them to fit in. He felt charter schools worked because they are consumer driven because they reflect the state's trust in parents. It is time for Montana to move forward instead of always being a laggard state that drags behind in education reform that works.

EXECUTIVE ACTION ON HB 369

During the bill hearing the committee requested statistics from the Office of the Commissioner of Higher Education. They were passed out. At that time the committee requested information from the Office of Public Instruction as to who pays for the tests required in Montana public schools. That information was also passed out.

[EXHIBIT](#)(edh30a10)

[EXHIBIT](#)(edh30a11)

Motion: **REP. VILLA** moved that HB 369 DO PASS. *{Tape: 3; Side: B; Approx. Time Counter: 22.4 - 30}*

{Tape: 4; Side: A}

Discussion:

REP. GALVIN-HALCRO noted that the statistics for four-year universities showed a slight increase in the retention rates in some of the institutions in Colorado, Illinois and Montana. However, in Oklahoma they remained the same. **REP. GALVIN-HALCRO** had asked the question about what tests are supplied to home schooled children. The reply stated that OPI has contracts for statewide testing with Riverside Publishing Company and Measured Progress. Students at non-accredited schools or Montana home schooled students may be tested within the limits of each contract. Each year the number of extra students to be tested is approximately 750 per grade. Results of home schooled students are not included or averaged with any school, district or state results. The test results are given directly to the parents by the county superintendent.

REP. WINDHAM said after speaking to the SPONSOR there was an unintended benefit to the bill. By requiring a curriculum based test for juniors, the school might be identifying individuals and motivating them to attend a two-year or four-year university program. The unintended benefit is that the school will be identifying deficiencies of the students and that would allow the school to focus on any given student and bring the student up to speed.

REP. BRANAE said he strongly supported the bill. He recalled that during the hearing it was stated that sometime in the future the test might be used during the standard statewide testing program. He had heard that President Bush was looking at some possible national exit exams and this test could fit into that category also.

REP. LAKE inquired about a fiscal note for the bill. **CHAIRPERSON GALVIN-HALCRO** informed him since the money for the testing is contained in the bill, it didn't have a fiscal note. If the bill passes out of committee it would be referred to the Appropriation Committee for funding. **REP. LAKE** asked how the testing is currently being funded. **CHAIRPERSON GALVIN-HALCRO** said the testing is not being done at present.

REP. WARD needed to understand which national test was to be given. He wanted to know, if one was selected, when would it be reviewed for possible replacement by another test. The **CHAIRPERSON** said that was a good question because she wasn't aware of which test was being talked about. **Ms. McClure** informed them that it was her understanding that a curriculum-based test

would be given and that is what the ACT test is. The SAT test is a norm based test.

REP. WARD said he didn't see anything in the bill about reviewing the testing program. The **CHAIRPERSON** informed him that he could ask for an amendment for the bill during the meeting or ask for it to be amended on the floor of the house.

Motion: **REP. WARD** moved a conceptual amendment for a performance audit after four years.

Ms. McClure pointed out that the bill had an appropriation on it and therefore it will be reviewed every two years for a new appropriation. Otherwise, it would be an unfunded mandate to OPI.

Without objection, **REP. WARD** withdrew his motion.

REP. MCKENNEY clarified some information for **REP. LAKE**. Currently the students that take the ACT test pay for the test individually. In the bill, the state pays the cost and more students might take the test and see that they did well and maybe get excited about further education after their high school career.

REP. ANDERSEN believed during the hearing she heard that the ACT test would be given during the senior year, and that during the junior year a student would take the pre-SAT. She needed clarification. The **CHAIRPERSON** informed her that it is traditionally taken during the junior year. **REP. ANDERSEN** felt the bill should specify that the test is to be taken during the junior year.

REP. DOWELL informed the committee that ACT tests are tied to a number of different schools and Montana's University System is one of them. That is why the bill contains the ACT test. The bill addressed the needs of students who planed to stay in-state for their post secondary education. He clarified that a student can take the test at any grade level and is encouraged to take it often to measure progress made. It is a good practice and the student gets to keep the highest score he/she has achieved.

REP. SONJU notified the committee that if a student didn't take the test because he couldn't afford the \$28 fee, then he didn't think the student could afford to go to college. He believed a student should take the test sooner than the junior year. It would allow the student more time to earn money for college. He could not support the bill if the test was given during the junior or senior year.

REP. CAMPBELL conveyed that she was supporting the bill. She felt the reality existed that there are many children who deserve to go to college but their parents don't have the money. She thought the test might peak the interest of students who might otherwise not think of continuing their education.

REP. WINDHAM wished to address **REP. SONJU** and **REP. DOWELL's** comments. The ability to take the test more than once should be an incentive for the student to keep taking the test and seeking to improve on the score each time.

REP. KOOPMAN recommended that the committee defeat the bill because he did not believe that \$28 would stand in the way of a person taking the ACT. He believed the bill was saying that parents don't choose correctly, so the taxpayer will do it for them. It is not the role of the legislature to make those kinds of decisions.

REP. RASER reminded the committee that she had not attended the bill hearing. She believed that grades 4, 8 and 11 are required to take a standard test. She wondered if the ACT test could be taken the junior year instead of the test now being given. It wouldn't cost the state money that way. **REP. BRANAE** informed **REP. RASER** that there is a possibility in the future for the ACT test to be used as a statewide exam but it is not being used presently.

REP. RASER informed the committee that when reading the bill she did not see a grade level for the test to be given.

REP. WINDHAM had been informed that the ACT test would not be available to a freshman or sophomore student because those students would not have taken the pre-requisite courses such as geometry. The student would not be able to successfully complete the exam. She agreed that it should be taken during the junior year.

Motion: **REP. ANDERSEN** moved a conceptual amendment that would mandate the test be given during the junior year of high school.

Discussion:

REP. BRANAE said he would strongly support the amendment. By taking the test as a junior, the student had the opportunity of taking it again as a senior.

REP. WARD conveyed that he would support the amendment and added that the test allowed higher education to look at the effectiveness of the school.

REP. GRINDE confirmed that she would support the amendment. She hoped that it might pave the way for the state to use the ACT for the junior year test.

REP. BUTCHER asked **REP. BRANAE** to explain to him the difference between the ACT and SAT tests. **REP. BRANAE** informed him that the ACT covers mathematics, science, English, and reading. The SAT is more geared to reasoning skills and the ability to think.

Vote: The conceptual amendment to HB 369 passed unanimously by voice vote.

Motion/Vote: **REP. VILLA** moved that HB 369 DO PASS AS AMENDED. Motion carried 12-4 by roll call vote with **REPS. BUTCHER, KOOPMAN, LAKE, and SALES** voting no.
{Tape: 4; Side: A; Approx. Time Counter: 0 - 24.8}

EXECUTIVE ACTION ON HB 404

Motion: **REP. KOOPMAN** moved that HB 404 DO PASS.

Motion: **REP. KOOPMAN** moved that HB 404 BE AMENDED.
[EXHIBIT](#)(edh30a12)

Discussion:

REP. KOOPMAN explained his amendments. He said they were the ones discussed during the bill hearing. He said the amendments were saying that a volunteer did not have to be a teacher or specialist.

Vote: The motion on the amendment to HB 404 passed 10-6 by voice vote with **REPS. VILLA, GRINDE, CAMPBELL, RASER, BRANAE, and GALVIN-HALCRO** voting no.

Motion: **REP. KOOPMAN** moved that HB 404 DO PASS AS AMENDED.

Discussion:

REP. CAMPBELL informed the committee that she opposed the bill because it contained some serious implications with collective bargaining. She also thought it might have other legal questions involved with it.

REP. DOWELL said one of the issues in the bill was that accreditation standards require that a certified teacher teach a subject. In his school district if a volunteer is present, the

accredited teacher had to be present. The No Child Left Behind Act tells the schools that the teacher must be highly trained in each area. He did not see volunteers filling that requirement. He saw the bill as ill suited for education. He would vote against the bill.

{Tape: 4; Side: A; Approx. Time Counter: 22 - 30}

{Tape: 4; Side: B}

REP. BUTCHER informed the committee that it bothered him when he saw an individual with advanced degrees in an area such as math and the person was not certified to teach the course in high school. Presently the state is telling local school boards who they can and cannot hire. The person he is talking about can teach in college but not high school. He pondered about how many substitute teachers are qualified. He knows of many who are not qualified. He believed the bill empowered local school boards to make their own choices as to who is going to teach the students. He would vote for the bill.

REP. LAKE reminded **REP. BUTCHER** that the bill addressed volunteers. Qualified volunteers have been known to tutor in the high schools successfully. The volunteers are not to replace current teachers in a system.

REP. RASER contended that many schools have very successful volunteer programs. She wished to state that someone with a great deal of expertise in a subject matter did not mean that person would be a good teacher. There is something to being able to teach, not just having knowledge of the subject matter. Teaching is a craft.

REP. ANDERSEN told of an incident in one of her high schools where a volunteer came in to teach music until a qualified person could be found. There was trouble when a qualified teacher came in because that person did not have the same interests as the volunteer. She believed the bill was an opportunity for students to have exposure to expertise that they might not otherwise have.

REP. GALVIN-HALCRO wondered if there was some problem in the schools with volunteers that brought the bill forward. She always welcomed volunteers in her classroom. She would never turn someone away that wanted to volunteer. She proclaimed that the person substituting for her during the legislature is a certified teacher. She questioned why there were no proponents at the bill hearing.

REP. KOOPMAN felt that some of the concerns made him believe the committee had forgotten what the bill was about. He said the bill didn't authorize schools to use volunteers that weren't

certified for jobs that required certification. He felt the language in the bill was clear on that point. He reported that the public school personnel in his district were very enthusiastic about the bill. He believed that there are collective bargaining agreements that can be interpreted as not allowing the use of volunteers when they are available. The bill gave schools of any size the flexibility to use volunteers without being concerned about going against the collective bargaining agreement or some state policy. He had not signed the fiscal note because he believed it was very inaccurate.

Vote: The motion for HB 404 AS AMENDED failed 8-8 on a roll call vote with REPS. ANDERSON, BUTCHER, KOOPMAN, LAKE, MCKENNEY, SALES, SONJU, and WARD voting aye.

EXECUTIVE ACTION ON HB 448

Motion: REP. VILLA moved that HB 448 DO PASS.

**Motion: REP. VILLA moved that HB 448 BE AMENDED.
[EXHIBIT](#)(edh30a13)**

Discussion:

REP. VILLA offered an amendment to the bill which had the support of the SPONSOR. The amendment allowed for 1% or \$25,000, whichever was greater, to be placed in a savings account by the school districts. It gave them a choice. The bill did not.

REP. SALES reported the amendment would allow for some very serious change in some of the school districts. He said he would oppose the amendment.

REP. SONJU agreed with REP. SALES and said he would not support the amendment.

REP. DOWELL favored the amendment.

Vote: The motion on the amendment to HB 448 failed 5-11 on a roll call vote with REPS. BRANAE, DOWELL, GRINDE, VILLA and GALVIN-HALCRO voting aye.

REP. GRINDE reported that she was opposed to the bill as she remembered the time before 1993 when school districts were allowed to keep 35% of their budget in their reserve fund and school districts had huge amounts of money in their reserve accounts, which they weren't spending on teachers' salaries, on school programs, or building upkeep. When the new funding bill

was approved in 1993, it was changed because it was considered part of the inequity in school districts because some districts had great sums of money in their reserves. At present the school can reserve 10% of the money they haven't spent. She saw the bill as doing nothing to solve the situation in the schools at present.

REP. VILLA informed the committee he spoke in favor of the bill as a former school board trustee who had to deal with the 10% figure. The 10% was an operating reserve for his district that was carried forward when the district had no tax income during the periods between May and November. The 10% reserve is vital to the operations of the district from July 1 through the next tax payment season. The districts are currently using that money to pay for teachers' salaries, utility bills, and supplies. He felt the assertion that districts are not is blatantly false. He felt the bill was a flexibility bill and not a solution bill. It allowed districts to keep money from the reapportionment funds at the end of a fiscal year where it is a 70%/30% breakout with the state receiving the 70%. The bill allowed the district to carry the money forward so that those dollars don't have to be assessed for the next fiscal year. The bill allowed districts the ability to be more flexible in their budgeting and present to the taxpayers a more fiscally sound budget. He urged the committee to pass the bill.

REP. WARD reported reading an article in the Helena Independent Record by Sara Cook. Ms. Cook had described the Montana education system as a ball of spaghetti. The **REPRESENTATIVE** felt the present bill was another way of the legislature dragging its feet in trying to solve the situation. He would oppose the bill.

REP. WINDHAM felt the bill was asking the property taxpayers to pay even greater taxes. She was opposed to the bill.

Vote: The motion to pass HB 448 failed 2-14 on a roll call vote with REPS. DOWELL and VILLA voting aye.

Motion/Vote: REP. WINDHAM moved that HB 448 BE TABLED AND THE VOTE REVERSED. The motion carried.

ADJOURNMENT

Adjournment: 7:15 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

NINA ROATCH-BARFUSS, Secretary

KG/nb

Additional Exhibits:

EXHIBIT ([edh30aad0.TIF](#))